Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
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DELETE, DELETE, DELETE	)	GN Docket No. 25-133
	)	
To: The Commission		

COMMENTS OF KTTR-KZNN, INC., AND STILLWATER BROADCASTING, LLC

KTTR-KZNN, INC., and Stillwater Broadcasting, LLC (herein, "Commenters"),[1] by their counsel, respectfully submit these Comments in response to the Commission's ongoing review of its rules under GN Docket No. 25-133[2] to identify "FCC rules for the purpose of alleviating unnecessary regulatory burdens." No doubt other Commenters will identify other unnecessary rules, but Commenters focus on the elimination of three outdated and burdensome rules: (a) 47 C.F.R. § 73.2080 (Equal Employment Opportunity requirements); (b) 47 C.F.R. § 73.3526(e)(12) (Issues and Programs Lists); and (c) 47 C.F.R. § 73.3555(a) (commercial radio numerical ownership limits). These rules impose unnecessary regulatory costs, duplicate existing federal oversight, and fail to reflect the competitive realities of today's media landscape. Commenters propose replacing § 73.2080 with enforcement by the Equal Employment Opportunity Commission ("EEOC"), eliminating §73.3526(e)(12) entirely, and revising §73.3555(a) to remove so-called "subcaps" on permissible radio services. These changes would modernize the regulatory framework, enhance operational flexibility, and better serve the public

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[1] KTTR-KZNN, INC., is licensee of KTTR(AM/FM), KZNN(FM), KXMO(FM), and KDAA(FM), in the Rolla, Missouri, radio market; and Stillwater Broadcasting, LLC, is licensee of KSPI (AM/FM), KGFY(FM) and KVRO(FM), in the Stillwater, Oklahoma, radio market.

[2] See *In Re: Delete, Delete, Delete*, Public Notice DA25-219, released March 12, 2025. These Comments are timely filed by April 11, 2025.

interest.

Elimination of 47 C.F.R. § 73.2080 (EEO Requirements)

The Commission's Equal Employment Opportunity (EEO) rule, 47 C.F.R. § 73.2080, requires broadcast licensees to provide equal employment opportunities (a requirement that Commenters strongly support) but also requires licensees to maintain extensive recruitment, reporting, and recordkeeping obligations. Nondiscrimination in employment is a critical principle not only of FCC rules and policy, but one of the most basic and important legal rights.[3] However, the FCC's EEO rule is redundant in light of the comprehensive authority of the Equal Employment Opportunity Commission ("EEOC") under Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.). The EEOC is the federal agency specifically tasked with enforcing workplace antidiscrimination laws across all industries, including broadcasting.

Section 73.2080 of the FCC's Rules requires each radio broadcast station with five or more full-time employees to establish, maintain, and carry out a positive continuing program of specific practices designed to ensure equal opportunity and nondiscrimination in every aspect of station employment policy and practice. A Station Employment Unit ("SEU") must: (1) Recruit for every full-time job vacancy in its operation; (2) Engage in specified recruitment initiatives; (3) Periodically analyze its recruitment program to insure its effectiveness; and (4) Retain detailed records to document that it has satisfied the requirement of the FCC's rule.

The rule requires stations to upload annually to their Online Public Inspection Files ("OPIF") and their websites (if the station has one): (1) A list of all full-time vacancies filled by

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[3] In the *Promoting Diversification of Ownership in the Broadcast Services Report and Order*, Report and Order and Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 5922, 5941, para. 49 (2008), the Commission required

the station's employment unit during the preceding year, identified by job title; (2) For each such vacancy, the recruitment source(s) utilized to fill the vacancy; (3) The recruitment source that referred the hiree for each full-time vacancy during the preceding year; (4) Data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and (5) A list and brief description of initiatives undertaken during the preceding year.

All broadcast stations are also subject to random audits of their EEO efforts which require the review and uploading to the OPIF of often voluminous documents. None of these tasks has been convincingly demonstrated to have any positive affect on broadcast employment, and the rule may be ineffective. As the EEOC provides a mechanism to enforce nondiscrimination, the rule should be eliminated. This overlap wastes licensee resources and diverts FCC attention from its core mission of regulating communications infrastructure and spectrum use.

Historical FCC proceedings, such as the *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules*[4] justified these rules as a means to promote diversity. The Commission's EEO requirements have most recently been addressed in In re *FCC*

commercial TV and radio broadcasters to certify in their renewal applications that their advertising sales agreements contained nondiscrimination clauses.

[4] Report and Order, 15 FCC Rcd 2329 (2000), *reconsideration denied with clarification,* 15 FCC Rcd 22548 (2000).

Seeks Comment on Issues Related to EEO Data Collection[5]; and *FCC Reinstates Use of EEO Form 395-B*,[6] (reinstating FCC Form 395-B that collects employment data.[7]

The Supreme Court's decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*[8] has raised questions about the constitutionality of race-conscious policies, potentially undermining the legal foundation of the FCC's EEO recruitment and record-keeping requirements.

Commenters propose eliminating § 73.2080 and deferring EEO enforcement to the EEOC, which has greater expertise and broader jurisdiction. This would streamline oversight, reduce regulatory redundancy, and align the FCC's role with its statutory mandate under the Communications Act of 1934.[9] If a Commission licensee were found by the EEOC to have engaged in discrimination in its employment practices, that fact could be used as a factor in whether to renew or revoke the license for such a station.

I. Elimination of 47 C.F.R. § 73.3526(e)(12) (Issues and Programs Lists)

Title 47 C.F.R. § 73.3526(e)(12) requires commercial broadcast stations every three months to upload to their OPIFs a list of programs that have provided the station's most

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[5] 36 FCC Rcd 12055 (2021).

[6] 39 FCC Rcd 12055 (2024).

[7] See also Public Notice, *Notice Of Recission Of Federal Communications Commission's Equity Action Plan And Related Materials*, DA 25-86, citing Executive Order "Ending Radical and Wasteful Government DEI Programs and Preferencing" and Executive Order titled "Initial Recissions of Harmful Executive Orders and Actions" issued by President Donald J. Trump on January 20, 2025, announcing that the Commission is rescinding its Equity Action Plan and all related materials and has discontinued its website: www.fcc.gov/equity.

[8] 600 U.S. 181, 143 S. Ct. 2141, 216 L. Ed. 2d 857 (2023).

[9] Communications Act of 1934, as amended, Title 47 USC §§151 *et seq.*

significant treatment of community issues during the preceding three month period and a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. This requirement is an anachronism in the digital age. The Rule is rooted in the FCC's original public interest standard developed in an era when radio and television were dominant media sources (see *Red Lion Broadcasting Co. v. FCC*).[10] Today, however, listeners have access to diverse content via satellite radio, streaming platforms, podcasts, and social media, rendering obsolete scarceness of spectrum as justification for regulation. Programs treating public affairs are sometimes broadcast during periods when few listeners are in the audience, owing to the fact that such programs are often uninteresting.

The preparation and retention of these lists impose significant administrative burdens without clear evidence of public benefit. In re *Elimination of Main Studio Rule*,[11] the Commission transitioned the requirement to maintain these records to the OPIF, but this shift merely digitized an outdated obligation rather than eliminating it. Market forces and audience demand already incentivize local radio stations to address community needs, as demonstrated by the proliferation of hyper-local podcasts and online news outlets. The Commission has sought comment on reducing unnecessary regulations and undue regulatory burdens that can stand in the way of competition and innovation in media markets. (see *Modernization of Media Regulation Initiative*)[12] and elimination of Section 73.3526(e)(12) would advance this goal.

In addition, the mere act of inadvertent failure to timely upload lists to the OPIF by the

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[10] 395 U.S. 367, 89 S. Ct. 1794, 23 L. Ed. 2d 371 (1969).

[11] 32 FCC Rcd 8158 (2017).

[12] Public Notice, 32 FCC Rcd 4406 (2017).

10th of the month following the close of the three-month quarter may result in hefty monetary forfeitures, short-term license renewals and consent decrees without the result of any public interest benefit.[13]

Eliminating Section 73.3526(e)(12) would reduce compliance costs and free broadcasters to focus on innovative programming, trusting listeners—not regulators—to shape content through their choices. No replacement is necessary, as the public interest is adequately served by today's media diversity.

II. Elimination of 47 C.F.R. § 73.3555(a) (Multiple Ownership Limits)

The numerical ownership limits in 47 C.F.R. § 73.3555(a) restrict the number of commercial radio stations a single entity may own in a market (*i.e.*, no more than 8 stations in the largest markets, with "subcaps" on AM and FM). Commenters propose the revision of the rule to eliminate the subcaps. Enacted under the Telecommunications Act of 1996 (Pub. L. No. 104-104, 110 Stat. 56), these limits aimed to preserve competition and diversity in an era when few consumers relied on digital communications.[14] However, the limits now hinder broadcasters' ability to compete with unregulated online audio providers like SiriusXM, Spotify and iHeartRadio, which face no ownership restrictions. The FCC's 2018 *Quadrennial Review*[15] retained these limits, citing localism and diversity goals. Yet, empirical evidence suggests

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[13] *See,* In re *Gendreau Broadcast,* LLC, Notice of Apparent Liability, 38 FCC Rcd 5052 (2023)($8,000 forfeiture); In re *Elohim Group Corp.*, 37 FCC Rcd 6129 (2022)(Consent Decree, granting short-term renewal of license and imposing reporting conditions on licensee); In re *Seaview Communications, Inc., Order,* 36 FCC Rcd 17087 (2021)($15,000 forfeiture and short-term renewal of license).

[14] A key milestone was the release of the World Wide Web in 1991 by Tim Berners-Lee, which made the internet more user-friendly through web browsers and hypertext. Source: Wikipedia. *https://en.wikipedia.org/wiki/World_Wide_Web*

[15] Report and Order, 33 FCC Rcd 12111.

consolidation can enhance efficiency and investment in quality programming without harming competition (see, *e.g., Prometheus Radio Project v. FCC*[16] remanded on other grounds). The radio industry is facing declining revenues— In *Communications Marketplace Report,* FCC 24-136 (¶ 312), released December 31, 2024, the Commission discussed, *inter alia*, various competitors to over-the-air broadcasting:

> While terrestrial broadcast radio remains dominant in some respects,...the gap in usage between broadcast and online audio programming has declined over time. [Figure omitted] shows that the number of weekly listeners to broadcast radio in the United States remained relatively stable, while the audience for online audio programming grew steadily. According to this figure, over the past decade, the number of listeners of terrestrial broadcast radio fell slightly, by approximately 0.3% on average, while the annual growth in online audio listeners was approximately 13%.

While the broadcast industry is not yet in peril, this information demonstrates the competition broadcasters face and elimination of the subcaps would assist the industry in remaining viable. Currently, AM stations are struggling for audience. The Commission has attempted to ameliorate this by authorizing the use of FM translators paired exclusively with AM stations.[17] While helpful, the fact is that AM stations and FM stations are in no way equivalent. The subcaps should be eliminated. In addition, continuing to impose the subcaps exacerbates the disparity between over-the-air broadcasting and online or satellite audio programming by preventing economies of scale that could sustain local stations.

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[16] 939 F.3d 567 (3d Cir. 2019).

[17] *Revitalization of the AM Radio Service*, Notice of Proposed Rule Making, 28 FCC Rcd 15221, 15227, para. 14 (2013), and First Report and Order, 30 FCC Rcd 12145, 12154, para. 17 and n. 43 (2015).

Commenters propose revising Section 73.3555(a) as follows:

§ 73.3555 Multiple Ownership.

(a)(1) ***Local radio ownership rule.*** A person or single entity (or entities under common control) may have a cognizable interest in licenses for AM or FM radio broadcast stations in accordance with the following limits:

(i) In a radio market with 45 or more full-power, commercial and noncommercial radio stations, not more than 8 commercial radio stations in total;

(ii) In a radio market with between 30 and 44 (inclusive) full-power, commercial and noncommercial radio stations, not more than 7 commercial radio stations in total;

(iii) In a radio market with between 15 and 29 (inclusive) full-power, commercial and noncommercial radio stations, not more than 6 commercial radio stations in total; and

(iv) In a radio market with 14 or fewer full-power, commercial and noncommercial radio stations, not more than 5 commercial radio stations in total.

Eliminating the AM-FM subcaps in § 73.3555(a) would allow market-driven consolidation, enabling broadcasters to adapt to modern competition. Antitrust oversight by the Department of Justice and Federal Trade Commission (under 15 U.S.C. §§ 1-7, Sherman Act) provides sufficient safeguards against monopolistic practices, negating the need for FCC-specific limits. This deregulatory step aligns with the Commission's goal of fostering a competitive media marketplace.

V. Conclusion

The elimination of 47 C.F.R. § 73.2080, § 73.3526(e)(12), and modification of §73.3555(a) would modernize broadcast regulation, reduce unnecessary burdens, and reflect the realities of today's media marketplace. Commenters urge the Commission to replace §73.2080 with EEOC enforcement, abolish § 73.3526(e)(12) outright, and remove the subcaps from §73.3555(a) to unleash market potential. These reforms would enhance efficiency, promote innovation, and better serve the public interest in 2025 and beyond.

In light of the foregoing, Commenters respectfully request the Commission to take the actions set forth above.

Respectfully submitted,

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